

**IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

RICKY FOREST,

Plaintiff,

v.

OLD REPUBLIC INSURANCE  
COMPANY, LANDSTAR RANGER,  
INC., and MICHAEL GARZA,

Defendants.

CIVIL ACTION FILE  
NO.:

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**NOTICE OF REMOVAL**

**TO:** Judges of the United States District Court  
Northern District of Georgia, Atlanta Division

Pursuant to 28 U.S.C. § 1441 *et seq.*, Defendants Landstar Ranger, Inc., Old Republic Insurance Company, and Michael Garza (hereinafter “the Defendants”) hereby remove the civil action captioned *Ricky Forest v. Old Republic Insurance Company, Landstar Ranger, Inc., and Michael Garza*, State Court of Gwinnett County, Civil Action File No. 23C03789S6 from the State Court of Gwinnett County, Georgia, to the United States District Court for the Northern District of Georgia, Atlanta Division. Removal is based upon the following:

### **Removal Based on Diversity Jurisdiction**

1. This Court has original jurisdiction of this matter pursuant to 28 U.S.C. § 1332 and this matter may be removed to this Court under 28 U.S.C. §§ 1441 and 1446.

### **Description of the Action**

2. On June 2, 2023, Plaintiff filed a Complaint against the Defendants alleging negligence related to a motor vehicle accident that occurred on or about April 6, 2023, in Cobb County, Georgia. *See generally*, Plaintiff's Complaint, attached as Exhibit "A".

### **Consent for Removal**

3. The procedure for removing a case to Federal Court is codified in 28 U.S.C. § 1446 and requires that "all defendants who have been properly joined and served" consent to the removal. 28 U.S.C. § 1446(b)(2)(A) (emphasis added); *Cook v. Randolph County, Ga.*, 573 F.3d 1143, 1150 (11th Cir. 2009); *Tri-Cities Newspaper, Inc. v. Tri-Cities Printing Pressmen and Assistants' Local 349*, 427 F.2d 325, 326-27 (5th Cir. 1970).

4. The Defendants, as the only defendants properly joined and served, consent to the removal of this Action through undersigned counsel.

5. The Defendants, which are the only defendants properly joined and served within the meaning of 28 U.S.C. § 1446, file the Notice of Removal of this Action.

### **The Amount in Controversy Requirement**

6. In diversity cases, 28 U.S.C. § 1332(a) requires that the matter in controversy exceed the sum or value of \$75,000.

7. In Plaintiff's Complaint, he seeks to recover damages for personal injury, past and future pain and suffering, general damages, and unspecified special damages. *See generally* Plaintiff's Complaint. Plaintiff's Complaint is silent as to the amount of damages sought.

9. Prior to filing his Complaint, Plaintiff made a demand to the Defendants to settle the case on June 6, 2023, in the amount of \$1,000,000.00. *See* Excerpt from June 6, 2023, Demand Letter, attached as Exhibit "B".

10. In Plaintiff's demand, Plaintiff stated "the value of this case is well in excess of your insured's policy limits." *See* Exhibit "B" at 2.

11. Thus, the amount in controversy has been established by a preponderance of the evidence pursuant to 28 U.S.C. § 1446(c)(2)(A)-(B) as shown by Plaintiff's Settlement Demand.

### **The Diversity of Citizenship Requirement**

11. For diversity jurisdiction under 28 U.S.C. § 1332(a)(1), the parties must be citizens of different states.

12. Plaintiff is a resident and citizen of the State of South Carolina and is entirely diverse from these Defendants. *See* Complaint, ¶ 2. According to the police report, Plaintiff is a resident of Columbia, South Carolina. *See* Motor Vehicle Crash Report, attached as Exhibit “C”. These Defendants have no information indicating Plaintiff is a citizen of any state other than South Carolina.

13. Defendant Landstar Ranger, Inc. is a foreign corporation existing under the laws of State of Delaware and is, therefore, a citizen of Delaware. Plaintiff’s Complaint ¶ 5; Defendants’ Answer ¶ 5. Defendant Landstar Ranger, Inc. is entirely diverse from Plaintiff.

14. Defendant Old Republic Insurance Company is a foreign corporation with its state of incorporation and principal place of business being the State of Pennsylvania and is, therefore, a citizen of Pennsylvania. Plaintiff’s Complaint ¶ 6; Defendants’ Answer ¶ 6. Defendant Old Republic Insurance Company is entirely diverse from Plaintiff.

15. Defendant Michael Garza is a resident of the State of Texas. *See* Complaint, ¶ 2. Defendant Michael Garza is entirely diverse from Plaintiff.

### **Compliance with Deadline for Removal**

16. Pursuant to 28 U.S.C. §1446(b)(2)(B), “Each defendant shall have 30 days after receipt by or service on that defendant of the initial pleading or summons described in paragraph (1) to file the notice of removal.”

17. Defendant Landstar Ranger, Inc. was served on June 14, 2023. *See* Notice of Service of Process (Landstar).

18. Defendant Old Republic Insurance Company was served on June 14, 2023. *See* Notice of Service of Process (Old Republic).

19. Defendant Michael Garza was served on June 14, 2023.

20. These Defendants have initiated removal within 30 days of receipt by or service on that defendant of the initial pleading or summons. Based on 28 U.S.C. §1446(b)(2)(B) this Notice of Removal is timely filed.

### **The State Court Proceeding**

21. The state court proceeding is identified as follows: *Ricky Forest v. Old Republic Insurance Company, Landstar Ranger, Inc., and Michael Garza*, State Court of Gwinnett County, Civil Action File No. 23C03789S6. A Notice of this Removal will be filed with the State Court of Gwinnett County upon filing of this Notice of Removal pursuant to 28 U.S.C. § 1446(d).

### **All State-Court Documents**

22. Pursuant to 28 U.S.C. § 1446(a), the following state-court filings are attached hereto: Plaintiff's Complaint (Exhibit "A"); Summons to Defendant Landstar Ranger, Inc. (Exhibit "D"); Summons to Defendant Old Republic Insurance Company (Exhibit "E"); Summons to Defendant Michael Garza (Exhibit "F"); Notice of Service of Process on Defendant Landstar Ranger, Inc. (Exhibit "G"); Notice of Service of Process on Defendant Old Republic Insurance Company (Exhibit "H"); Notice of Service of Process on Defendant Michael Garza (Exhibit "I"); Defendants' Answer to Plaintiff's Complaint (Exhibit "H"); Written discovery requests served by Plaintiff and these Defendants have not been attached for the sake of brevity.

**WHEREFORE**, these Defendants exercise their right under the provisions of 28 U.S.C. § 1441, *et seq.* to remove this action from the State Court of Gwinnett County, Georgia, to the United States District Court for the Northern District of Georgia, Atlanta Division.

This 12<sup>th</sup> day of July 2023.

**NALL & MILLER, LLP**

By: /s/ Michael D. Hostetter

**MICHAEL D. HOSTETTER**

Georgia Bar No. 368420

**SARA D. E. KELLY**

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**CERTIFICATE OF COMPLIANCE WITH N.D. GA. LOCAL RULE 5.1B**

This is to certify that this pleading was created in Times New Roman 14-point font in accordance with Northern District of Georgia Local Rule 5.1B.

This 12<sup>th</sup> day of July 2023.

**NALL & MILLER, LLP**

By: /s/ Michael D. Hostetter

**MICHAEL D. HOSTETTER**

Georgia Bar No. 368420

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day filed the within and foregoing **NOTICE OF REMOVAL (Federal)** with the Clerk of Court in this matter and served a true copy of same by First Class U.S. Mail, proper postage prepaid, to counsel of record listed below.

William Collins  
MORGAN & MORGAN, P.A.  
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*Attorney for Plaintiff*

This 12<sup>th</sup> day of July, 2023.

**NALL & MILLER, LLP**

By: /s/ Michael D. Hostetter  
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Georgia Bar No. 368420  
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